

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA
EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

CIVIL ACTION NO.1:06CV433 LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY, *ET AL.*

DEFENDANTS

**MEMORANDUM OPINION AND ORDER DENYING MOTION [687] OF STATE FARM
FIRE AND CASUALTY COMPANY TO EXCLUDE THE TESTIMONY OF CERTAIN
WITNESSES ON THE GROUNDS OF UNTIMELY DISCLOSURE BY RELATORS**

The Court has before it the motion [687] of State Farm Fire and Casualty Company (State Farm) to exclude the testimony of ten potential witnesses identified by the Relators in their supplemental disclosures on July 1, 2010. Relators have withdrawn their designation for four of these individuals, and the six remain for consideration: Owen and Shirley McPeek; Michael and Shannon Cavanaugh; and Sam and Ann Larosa. All six of these individuals are State Farm policyholders who live within one-half mile of the McIntosh property.

Because the storm conditions at the McIntosh property are so obviously relevant to the issues in dispute, Relators' disclosure of these six individuals as potential witnesses can hardly have come as a surprise to State Farm. According to the Relators' responsive memorandum of law [712], the identity of these potential witnesses was made known to State Farm during the course of discovery. If this is the case, formal supplementation was unnecessary, and it follows that the supplementation could not have been untimely.

Given these witnesses' status as State Farm policyholders, it is logical to infer that State Farm has had every opportunity to talk with these individuals and find out what they know about the storm conditions on their properties. In light of all this, and absent a showing of any substantial prejudice, I will **DENY** the motion [687] and allow these individuals to remain on the list of potential witnesses. I will permit State Farm to depose these witnesses, if they so choose, within thirty days of the date of this opinion and order.

SO ORDERED this 9th day of December, 2010.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE